## Remarks

Applicant respectfully requests reconsideration of the above referenced application in light of the Amendment submitted herewith and the Remarks that follow. Claims 1-55 are now pending in this application.

In the Office Action dated July 26, 2007 (the "Office Action"), claims 1, 24 and 39 were rejected under 35 U.S.C. 101 as claiming an invention directed to non-statutory matter. Claims 1, 24 and 39 were also rejected under 35 U.S.C. 112, second paragraph for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as his invention. Claims 1-55 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication No. 2004/0186803 to Weber ("Weber") in view of U.S. Patent No. 6,360,210 to Wallman ("Wallman").

The undersigned's Remarks are preceded by related comments in the Office Action, presented in small bold-faced type font.

### Claim Rejections - 35 USC § 101

**Applicants' claims are directed to an algorithm. Specifically, claim 1, 24, 39 recites "parsing", "forming a models, combining models providing payout", however these steps are mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, for example) and abstract ideas without a practical application are found to be non-statutory subject matter. Therefore, Applicants' claims are non-statutory as they do not produce a useful, concrete and tangible result.**

Office Action, pg. 2.

Applicant respectfully submits that this rejection is moot in view of Applicant's current Amendment of claims 1, 24 and 39. Claims 1, 24 and 39 have been amended to further suitably recite that the claimed inventions are drawn to a computer-implemented method (claim 1) and a computer system (claims 24 and 39). No new matter has been added.

### Claim Rejections - 35 USC § 112

**In particular, Claims 1, 24, 39, recites the words ["forming a model portfolio of said exposure, said model representing cash flows and forming a hedging portfolio for said exposure said hedging portfolio representing cash flows,"].**
**However, a portfolio models do not consist or represent cash flows, it is consistent with "positions"**

> **and cash flows is only in present when a trade occurs.**
> **Further when his language fails to distinctly claim Applicant's inventions because the scope of the claim is unclear. Moreover the specification fails to clarify, the meaning of the limitation. Appropriate correction is clarified.**

Office Action, pg. 2.

As an initial matter, Applicant respectfully disagrees with the assertion in the Office Action that "a portfolio model does not consist or represent cash flows". Applicant respectfully submits that in the claimed invention, portfolio models do <u>represent</u> cash flows. Applicant's Specification itself states that:

> *Each of the model portfolio and hedging portfolio is a set of transactions that when liquidated over time results in cash flows.*

Applicant's Specification, para. 9.

Thus, a model portfolio is a <u>representation</u> of said cash flows, even if the actual cash flows have not actually taken place.

In addition, Applicant respectfully disagrees with the statement in the Office Action that "the specification fails to clarify the meaning of the limitation". Applicant respectfully notes that the language of the claims is consistent with that of the disclosure, and the meaning of the representation of cash flows is explained throughout the Specification, such as in paragraphs 45:

> *Portfolio modeling engine 3 then models the portfolio using proxy financial instruments (defined as transactions in which the financial institution is not a principal) that <u>imitate the cash flows</u> from the client portfolio. In an exemplary embodiment, the portfolio is modeled using derivatives, such as forwards and options, according to well-known techniques. For example, with respect to a portfolio that includes electricity generating plants, it is known to model a nuclear power plant that continuously produces electricity at a fixed cost as a forward contract for electricity. Dispatchable power plants (i.e. those that may be turned on and off as required), on the other hand, may be modeled using option contracts for electricity. Similarly, it is known to model the power producer's obligations to provide electricity as a series of forward and options contracts. Thus, in the case of an electricity producer's portfolio, portfolio modeling engine 3 generates a model portfolio by modeling the client portfolio using forward and options contracts according to known techniques.*

Applicant's Specification, para. 45 (emphasis added).

Examples of this representation are provided in paragraph 53, for embodiments of the claimed invention where the model portfolios represent actual financial contracts or a combination of actual and proxy financial contracts:

> *Each of the model portfolio and hedging portfolio generate cash flows that are calculated by tracking portfolio generator 7 using real-time market data. For example, if the model portfolio contains one transaction, an agreement to deliver 500MWh each hour over the next three days at $100/MWh, then the cash flow to the seller on day one is 24.times.500.times.(100--actual price of power purchased). The cash flows to the seller for days two and three are calculated in a similar manner. Thus, when the model portfolio includes actual transactions, the cash flows are generated by executing such actual transactions. When the model portfolio includes proxy financial instruments, such as options, the cash flows are generated by the payment of premiums and by exercising the instruments. Tracking portfolio generator 7 then combines the model portfolio and hedging portfolio by adding/subtracting their respective cash flows thereby generating a series of tracking portfolio cash flows. Therefore, tracking portfolio cash flows are a sequence of values over time that represent the efficacy by which the hedging portfolio hedges the model portfolio. In an exemplary embodiment, tracking portfolio generator 7 combines the cash flows of the model portfolio and the hedging portfolio on a daily or weekly basis or when invoices regarding payments between the client and the financial institution are to be prepared.*

Applicant's Specification, para. 53 (emphasis added).

Furthermore, the Office Action states that a portfolio model is consistent with "positions". As stated in the Specification, Applicant's claimed model portfolios may encompass actual transactions entered into by the entity with third parties. In this scenario, the term "cash flow" is more suitable than "position" and it is consistent with Applicant's disclosure. Thus, Applicant respectfully requests that the current 35 USC § 112 be withdrawn.

**Claim Rejections - 35 USC § 103**

> **As per claim 1, Weber discloses a method by which an entity manages an exposure to an economic risk associated with a commodity, comprising the steps of forming a model portfolio of said exposure ("i.e. proxy portfolio" see column 2 para 0013), said model representing cash flows;**
> **Forming a hedging portfolio for said exposure (see column 2 para 0013) said hedging portfolio representing cash flows, (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15).**
> **Weber fails to explicitly teach periodically combining said cash flows of said model portfolio and said hedging portfolio and providing a payout based on said combined cash flows.**
> **However Wallman discloses the present invention solves this problem by combining a graphical or other user interface accessible by the investor over the Internet or through an intermediary with a computational pricing mechanism that examines an investor's current portfolio's expected risk, prices the expected risk, and transfers to a third party all or some of either that precise expected portfolio risk or some other more general or different risk, such as overall market risk as reflected in**

> **an index like the S&P 500. The third party may be the system operator. The transfer is in exchange for consideration, which can be either cash, other property or part of the opportunity cost forgone in connection with the portfolio. (see column 5 lines 64-67 and column 6 clines 1-8 and column 9 lines 50-59)**
> **Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Weber to include periodically combining said cash flows of said model portfolio and said hedging portfolio and providing a payout based on said combined cash flows taught by Wallman in order to manage portfolio of investment and in which an investor can limit the risk in portfolio.**

Office Action, pg. 3-4.

Applicant respectfully traverses this rejection for at least the reason that Weber and Wallman, even when combined, do not teach or render obvious all the limitations of at least independent claims 1, 24 and 29. The Office Action acknowledges that "Weber fails to explicitly teach periodically combining said cash flows of said model portfolio and said hedging portfolio and providing a payout based on said combined cash flows". However, Applicant respectfully submits that Wallman does not cure Weber's defects. Wallman teaches a method and system to estimate the expected risk of a portfolio, to price that expected risk and to <u>transfer that risk</u> in exchange for either cash or other property. In other words, Wallman teaches a method and system to provide <u>insurance</u> to investors against certain unwanted results in the investor's portfolio, such as a decrease in value, in exchange for a price.

In Wallman, there is no cash flow from a hedging portfolio to be combined with a cash flow from a model portfolio. In Wallman, the investor, simply arranges for a payment in exchange for the shield against unwanted results in the portfolio. Thus, Wallman does not teach or even suggest "periodically combining said cash flows of said model portfolio and said hedging portfolio and providing a payout based on said combined cash flows" as required by Applicant's claimed invention. Wallman's method resembles one of the methods discussed in Applicant's Specification as prior art, in which an intermediary executes a hedging strategy in exchange for a premium. Applicant already has qualified this method as having the disadvantage for the commodity provider of giving up the risk

premium, and thus of not being optimal. Applicant's claimed invention is offered as a more advantageous alternative to the methods of the prior art. For example, Applicant states:

> *The present invention may also help the client (i) avoid paying the full risk premium associated with simply selling the exposure and allowing a third party to manage it*

Applicant's Specification, para. 72.

Thus, the combination of Wallman with Weber would not only not result in Applicant's claimed invention, but would place an investor with the disadvantages of the methods of the prior art discussed by Applicant.

For at least the foregoing reasons, Applicant respectfully disagrees with at least the statement in the Office Action that "periodically combining said cash flows of said model portfolio and said hedging portfolio and providing a payout based on said combined cash flows" is taught by Wallman, and respectfully submits that the claimed invention is not obvious in view of Wallman.

Claims 24 and 39 are drawn to systems that implement the method of the invention, and contain at least the same limitation terms from claim 1 that, as Applicant has argued above, are not disclosed or suggested by Weber, Wallman, or Weber in view of Wallman. Thus, for at least this reason, Applicant respectfully submits that Weber in view of Wallman cannot render Claims 24 or 39 obvious.

As for the arguments presented in the Office Action to support the rejection of claim 39, Applicant respectfully requests clarification of the teachings of Wallman discussed in the Office Action with respect to management of securities that are collateralized by mortgage obligations. Applicant respectfully requests confirmation of the citation provided and clarification of its relevance to the claimed invention:

> **As per claim 39, (...) Weber fails to explicitly teach and combining said cash flows of said model portfolio and said hedging portfolio and payout manager, said payout manager providing a payout based on said combined cash flows.**
> **However Wallman discloses these and other objectives of the invention are met by providing a system for creating and managing securities that evaluates the cash flows of underlying securities collateralized by mortgage obligations (the "collateral") that are to be restructured into new securities. The underlying securities to be restructured can be either mortgage securities that qualify as collateral for a CMO/REMIC or securities that were issued by an existing CMO/REMIC. The system determines the cash flows based on the Original Term of the underlying securities, as well as the Remaining Term and Loan Age, Gross Coupon, Net Coupon, Settlement Date, Issue Date, Payment Dates, Present Value, and various other mortgage loan characteristics. (see column 3 lines 41-53).**
> **Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Weber to include combining said cash flows of said model portfolio and said hedging portfolio and a payout manager, said payout manager providing a payout based on said combined cash flows taught by Wallman in order to manage securities that are collateralized by mortgage obligations.**
> Office Action, pg. 9-10.

Claims 2-23, 25-38 and 40-55 depend directly or indirectly from claims 1, 24, or 39 and define further features and structure of the system. Accordingly, these claims are not obvious and are thus patentable for at least the reasons noted above with respect to claims 1, 24 and 39 as well as for the additional features recited therein. Notice to the effect that dependent claims 2-23, 25-38 and 40-55 are in condition for immediate allowance is respectfully requested.

## Closing

Claims 1, 24 and 39 have been amended. Claims 1-55 are now pending and believed to be in condition for allowance. Applicant has made a diligent effort to place this application in better condition for immediate allowance and notice to this effect is earnestly solicited. The Examiner is respectfully requested to reconsider the application at an early date with a view towards issuing a favorable action thereon. If upon the review of the application, the Examiner is unable to issue an immediate notice of allowance, he is respectfully requested to telephone the undersigned attorney at (212) 895-1376 with a view towards resolving the outstanding issues.

The Commissioner is authorized to charge and fees required in connection with this submission to Deposit Account No. 50-0521.

Respectfully submitted,

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